

mittee on Insurance, Statistics and History.

Call concluded.

HOUSE MESSAGE.

The following House message was received:

Hall of the House of Representatives,
Austin, Texas, Feb. 8, 1899.

Hon. Jas. N. Browning, President of the Senate.

I am directed by the House to inform the Senate of the passage of the following bill:

House bill No. 123. "An Act to authorize the Southern Kansas Railway Company of Texas to purchase the Panhandle Railway and to operate the same under the charter of the Southern Kansas Railway Company of Texas, as a part of its own line, with the right to extend the same and construct branches therefrom by amendment of its charter under the General Laws of Texas."

Also "An Act to provide for the removal of the remains of the late lamented W. A. A. Wallace, familiarly known as 'Big Foot' Wallace, from Frio county and for their interment in the State cemetery at Austin, and making the necessary appropriation therefor."

The House has granted the request of the Senate to return Substitute House bill No. 54, and it is herewith returned to the Senate.

Respectfully,

LEE J. ROUNTREE,

Chief Clerk House of Representatives.

IN SENATE.

The above reported House bills were read first time, and referred as follows:

House bill No. 353, to Committee on Finance.

House bill No. 123, to Committee on Internal Improvements.

CLERK TO ATTEND SPECIAL COMMITTEE TO VISIT ASYLUMS.

The Chair announced that committee clerk F. B. Hughes, would attend the special committee appointed to visit the asylums.

SPECIAL ORDER.

The Chair laid before the Senate,

Senate bill No. 30, A bill to be entitled "An Act to define libel and privileged communications and publications, and to more effectually secure the liberty of the press, and to prevent abuses in exercising such liberty of the press," action being on the substitute amendment by Senator Atlee for the amendment offered by Senator McGee, they being, towit:

By Senator McGee:

"Amend by striking out the word 'not,' in line 19, page 1, and by striking out the words 'but shall be proven like any other fact,' line 20, page 1."

By Senator Atlee:

"Substitute the amendment:

"Insert after the word 'publication,' in line 20, page 1, the word 'alone.'"

(President pro tem. Stafford in the chair.)

After lengthy consideration and pending discussion by Senator McGee, on motion of Senator Linn the Senate adjourned to 10 a. m. tomorrow.

TWENTY-THIRD DAY.

Senate Chamber,

Austin, Texas, Thursday, Feb. 9, 1899.

Senate met pursuant to adjournment.

Lieutenant-Governor Browning in the chair.

Roll called. Quorum present, the following Senators answering to their names:

Atlee.	Odell.
Burns.	Patterson.
Davidson.	Potter.
Dibrell.	Ross.
Greer.	Sebastian.
Grinnan.	Stafford.
James.	Stone.
Linn.	Terrell.
Lloyd.	Turney.
McGee.	Wayland.
Miller.	Yantis.
Neal.	

Absent.

Johnson.	Morriss.
Kerr.	

Absent—Excused.

Goss.	Lewis.
Gough.	Yett.
Hanger.	

Prayer by the Chaplain, Rev. Dr. Denison.

Pending the reading of the Journal of yesterday,

On motion of Senator Stafford, the same was dispensed with.

EXCUSED.

On motion of Senator Odell, Senator Sebastian was excused for non-attendance on yesterday, on account of important business.

PETITIONS AND MEMORIALS.

By Senator McGee:

Petition from citizens of Marshall, Harrison county, asking for the passage

of Senator Lloyd's anti-tobacco bill, and Senator Yett's cocaine-opium bill.

Read, and referred to Judiciary Committee No. 2.

By Senator Dibrell:

Petition from county officials of Comal county, protesting against the removal of said county from the Third Supreme Judicial District to the Fourth Supreme Judicial District.

Read, and referred to Committee on Judicial Districts.

COMMITTEE REPORTS.

Committee Room,
Austin, Texas, Feb. 8, 1899.

Hon. Jas. N. Browning, President of the Senate.

SIR: Your Committee on Judicial Districts, to whom was referred

Senate bill No. 25, being a bill to be entitled "An Act to diminish the civil and criminal jurisdiction of the County Court of Duval county; to conform the jurisdiction of the district court of said county thereto; and to repeal all laws in conflict herewith,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do pass*.

DAVIDSON, Chairman.

Committee Room,
Austin, Texas, Feb. 8, 1899.

Hon. Jas. N. Browning, President of the Senate.

SIR: Your Committee on Judicial Districts, to whom was referred

Senate bill No. 117, being a bill to be entitled "An Act to amend an act entitled 'An Act to amend Sections 1069 and 1070, and Sections 2 and 3, of the Acts of the Special Session of the Twenty-fifth Legislature,' approved June 19, 1897, and to provide for the compensation and mode of payment of special judges appointed or selected thereunder, and to provide for the trial of cases by such special judges,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do pass*.

DAVIDSON, Chairman.

Committee Room,
Austin, Texas, Feb. 8, 1899.

Hon. Jas. N. Browning, President of the Senate.

SIR: Your Committee on Judicial Districts, to whom was referred

House bill No. 283, being a bill to be entitled "An Act to amend Title IV, 'Apportionment,' Article 21, subdivisions 3

and 4, of the Revised Civil Statutes of the State of Texas of 1895, dividing the State of Texas into five supreme judicial districts for the purpose of constituting and organizing courts of civil appeals therein, so as to place Mason county in the Third Supreme Judicial District, and Comal county in the Fourth Supreme Judicial District,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do pass*.

DAVIDSON, Chairman.

Committee Room,
Austin, Texas, Feb. 8, 1899.

Hon. Jas. N. Browning, President of the Senate.

SIR: Your Committee on Judicial Districts, to whom was referred

House bill No. 149, being a bill to be entitled "An Act to extend the terms and prescribe the time of holding the terms of the district courts of the Thirty-seventh and Forty-fifth Judicial Districts of Texas,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do pass*.

DAVIDSON, Chairman.

Committee Room,
Austin, Texas, Feb. 8, 1899.

Hon. Jas. N. Browning, President of the Senate.

SIR: Your Committee on Judicial Districts, to whom was referred

Senate bill No. 133, being a bill to be entitled "An Act to prescribe the time for holding the terms of the district court of the Thirty-sixth Judicial District of the State of Texas, and to repeal all laws or parts of laws in conflict with this act,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do pass*.

DAVIDSON, Chairman.

Committee Room,
Austin, Texas, Feb. 9, 1899.

Hon. Jas. N. Browning, President of the Senate.

SIR: Your Committee on Counties and County Boundaries, to whom was referred

Senate bill No. 134, being a bill to be entitled "An Act to abolish the unorganized county of Encinal, to establish the boundaries of Webb county so as to include the territory of said unorganized county; to provide for the transfer of

funds belonging to said county in the State treasury to the treasury of Webb county, and for the collection of taxes due from non-residents,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do pass*.

TERRELL, Chairman.

BILLS AND RESOLUTIONS.

By Senator Greer:

Whereas, The Port Arthur Channel and Dock Company in connection with the Kansas City, Pittsburg and Gulf Railroad company, and its connecting line, is seeking the development and perfection of the gulf port of Sabine Pass, but the construction of a large ship channel from the low lands adjacent to the deep waters of the Gulf of Mexico at Sabine Pass to a point near the town of Port Arthur at the terminal of the Kansas City, Pittsburg and Gulf Railway and the Texarkana and Fort Smith Railway, to a place of security from the devastating effects of tidal waves and storms which frequent the Gulf of Mexico; and

Whereas, The construction of said channel means the greatest benefit not only to Southeast Texas, but to the entire trans-Mississippi country in the shortening of the distance from the great grain-producing section of the northwest to the seaboard, and thereby cheapening the transportation of both imports and exports; and

Whereas, The same would result in direct profit to the producers and consumers of said exports and imports; and

Whereas, The object of the construction of the railways above mentioned, and of said channel, is to divert the export freight from the Atlantic seaboard to the gulf ports, and the consequent cheapening of the imported articles consumed by the Western part of this country; and

Whereas, Said channel company has procured its right of way by purchase and condemnation for the full length of its channel, and has already constructed and built a channel for a length of about seven miles, twenty-five feet in depth, and of a minimum width of not less than one hundred and eighty-three feet at an actual cost and outlay of not less than one million dollars; and

Whereas, Said channel company now has only about two miles more of its channel to construct before it completes the same to its connections above mentioned; and

Whereas, Said channel company has never asked for a donation or bonus of any character or description, but has

paid in cash for all of its property and for all work done for it, and only asks to be unmolested and let alone in the prosecution of its work and the expenditure of its own money; and

Whereas, Since the completion of said railways and the beginning of the construction of the said channel, the population of Jefferson county, Texas, has almost doubled and the tax values of the property situated therein have likewise doubled; and

Whereas, There is now pending before the Honorable Secretary of War at Washington, D. C., an application by the channel company to be permitted to connect said channel with the deep water of Sabine Pass; and

Whereas, The Secretary of War has temporarily suspended the work on said channel; and

Whereas, Said channel company has been adjudged by the Supreme Court of the State of Texas, as well as by the United States Circuit Court of Appeals for the Eastern District of Texas, entitled to so connect its channel; and

Whereas, the great benefit that will accrue to the Southeastern portion of this State by the early completion of the said channel cannot be overestimated, now, therefore, be it

Resolved, By the Senate of the State of Texas, that the Senators and Representatives of this State in Congress be and they are hereby urged to do all things in their power to facilitate and expedite the connection of said channel with the waters of the Gulf of Mexico, and that the various heads of the Federal government at Washington who have cognizance of such affairs be and they are hereby respectfully requested to take immediate and all necessary and proper steps to the end that said channel may be early completed.

Resolved, further, that the Secretary of this Senate do send a copy of this resolution to the Hon. R. A. Alger, Secretary of War, at Washington, forthwith.

Resolution read and

Adopted.

By Senator Potter:

Senate bill No. 136, A bill to be entitled "An Act to amend Articles 4573 and 4574 of the Revised Statutes of the State of Texas, relating to extortion and discrimination by railways, and in addition to the present penalties providing for forfeiture of charter."

Read first time, and referred to Committee on Internal Improvements.

By Senator Wayland:

Senate bill No. 137, A bill to be entitled "An Act to amend Article 5172, of the

Revised Civil Statutes of the State of Texas, relating to commissions of tax collectors."

Read first time, and referred to Committee on Finance.

By Senator Stafford:

Senate bill No. 138, A bill to be entitled "An Act to amend Article 1020, Title XXVII, Chapter 16, of the Revised Civil Statutes of the State of Texas, adopted in 1895, relating to the manner of giving notice of motions by the Court of Civil Appeals, and to repeal all laws and rules in conflict herewith."

Read first time, and referred to Judiciary Committee No. 1.

By Senator Stafford:

Senate bill No. 139, A bill to be entitled "An Act to amend Chapter 4, Title VI, of the Penal Code of the State of Texas, by adding thereto Article 186a."

Read first time, and referred to Judiciary Committee No. 2.

By Senator Stafford:

Senate bill No. 140, A bill to be entitled "An Act to amend Title XXX, Chapter 4, Article 1194, of the Revised Civil Statutes of the State of Texas of 1895, relating to venue of suits in cases of personal injury against a railroad corporation or against any assignee, trustee or receiver operating said railway, by adding thereto Section 23a after Section 23."

Read first time, and referred to Committee on Internal Improvements.

By Senator Turney:

Senate bill No. 141, A bill to be entitled "An Act to authorize the Houston and Texas Central Railroad company to purchase, own and operate the railroad of the Central Texas and Northwestern Railway company, with its franchises and appurtenances; the railroad of the Fort Worth and New Orleans Railway company, with its franchises and appurtenances; the Lancaster Tap railroad, with its franchises and appurtenances; the railroad of the Austin and Northwestern railroad company, with its franchises and appurtenances; and the railroad of the Granite Mountain and Marble Falls City railroad company, with its franchises and appurtenances, or either or any of such railroads, with its or their franchises and appurtenances, and to authorize the owners of each of said railroads, and its franchises and appurtenances, to sell the same; and to authorize said Houston and Texas Central Railroad company to issue additional mortgage bonds to the amount of the value of the railways, franchises and appurtenances so purchased as fixed, or as the same may be fixed by the Railroad Commission of Texas; and to regulate the

reports of such properties and the operations thereof."

Read first time, and referred to Committee on Internal Improvements.

By Senator Yantis:

Senate bill No. 142, A bill to be entitled "An Act to prohibit any person from charging or taking from another any rate of interest greater than ten per cent. per annum, and to fix a penalty for the violation of the provisions of this act."

Read first time, and referred to Judiciary Committee No. 2.

By Senator Linn (by request):

Senate bill No. 143, A bill to be entitled "An Act to amend Article 186, of Chapter 4, Title VI, of the Penal Code."

Read first time, and referred to Judiciary Committee No. 2.

By Senators Lloyd and Greer:

Senate bill No. 144, A bill to be entitled "An Act to authorize the Texas and New Orleans Railroad company to own and operate, or to amend its charter or articles of incorporation so as to authorize it to own and operate a railroad connection between the railroad known as the Sabine and East Texas Railway, and the railroad known as the Texas Trunk Railroad, and to construct such railroad as may be requisite for the purpose of making such railroad connection; to confirm the purchase by the Texas and New Orleans Railroad company of the said railroad known as the Sabine and East Texas Railway, its franchises and appurtenances, and to authorize said railroad company to own and operate the same; to authorize said Texas and New Orleans Railroad company to purchase, own and operate the railroad known as the Texas Trunk Railroad, with its franchises and appurtenances, and the railroad known as the Louisiana Western Extension Railroad, with its franchises and appurtenances; to authorize the owners of each of said railroads to sell the same with its franchises and appurtenances to the said Texas and New Orleans Railroad company, and to prescribe the conditions upon which such sales shall be valid; to authorize the Texas and New Orleans Railroad company to issue additional mortgage bonds to the amount of the value, as the same is or may be fixed by the Railroad Commission of Texas of such of said railroads and their respective franchises and appurtenances as may have been so purchased by it, and to the amount of the value, as the same may be so fixed, of the railroad to be constructed as aforesaid connecting the Sabine and East Texas Railway with the Texas Trunk Railroad; and to regulate the re-

ports of such properties and the operation thereof."

Read first time, and referred to Committee on Internal Improvements.

By Senator Terrell:

Senate bill No. 145, A bill to be entitled "An Act to provide for the establishment, maintenance and government of a State Normal school, to be located at Denton, Texas, and to be known as the North Texas Normal School."

Read first time, and referred to Committee on Education.

Call concluded.

PENDING BUSINESS.

The Chair laid before the Senate,

Senate bill No. 30, A bill to be entitled "An Act to define libel and privileged communications and publications, and to more effectually secure the liberty of the press, and to prevent abuses in exercising such liberty of the press," action being on the substitute amendment by Senator Atlee for the amendment offered by Senator McGee, they being, towit:

By Senator McGee:

"Amend by striking out the word 'not,' in line 19, page 1, and by striking out the words 'but shall be proven like any other fact,' line 20, page 1."

By Senator Atlee:

"Substitute the amendment:

"Insert after the word 'publication,' in line 20, page 1, the word 'alone.'"

Senator Atlee withdrew his substitute.

By Senator Odell:

"Substitute the amendment (McGee's) as follows:

"Substitute for Section 2 of the bill:

"Sec. 2. In all actions for libel, the truth, when published in good faith and for justifiable ends, shall constitute a sufficient defense. The truth of any such libel may be established by a preponderance of evidence, and when there is a failure to do this, malice in such cases may be inferred from the act of publication."

(Senator Greer in the Chair.)

Pending consideration,

Senator Davidson moved that the bill and pending amendment thereto and substitute for said amendment be recommitted to Judiciary Committee No. 1.

Recommitted by the following vote:

Yeas—12.

Davidson.	Ross.
Grinnan.	Sebastian.
Lloyd.	Stone.
McGee.	Terrell.
Miller.	Wayland.
Patterson.	Yantis.

Nays—10.

Atlee.	Neal.
Dibrell.	Odell.
Greer.	Potter.
James.	Stafford.
Linn.	Turney.

Absent.

Johnson.	Kerr.
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Absent—Excused.

Goss.	Lewis.
Gough.	Yett.
Hanger.	

PAIRED.

Senator Burns, present, who would vote "nay" with Senator Morriss, absent, who would vote "yea."

(Lieutenant-Governor Browning in the Chair.)

BILL SIGNED.

The Chair gave notice of signing and did sign, after its caption had been read,

House bill No. 22, A bill to be entitled "An Act to provide for the location and building of a branch asylum for the care and treatment of the epileptic insane of the State, and to make an appropriation therefor."

SPECIAL ORDER.

The Chair laid before the Senate, on second reading,

Substitute Senate bill No. 55, A bill to be entitled "An Act to establish and create in each of the cities, towns and villages of this State a State court, to be known as the Corporation Court in such city, town or village, and to prescribe the jurisdiction and organization thereof, and to abolish municipal courts," action being on the adoption of the committee substitute.

Committee substitute adopted.

Senator Potter called for consideration of the bill by sections.

So ordered.

Section 1 read.

Section 2 read.

Section 3 read.

By Senator Grinnan:

"Amend bill No. 55 by striking out Section 3, and substituting the following:

"Such court shall be presided over by a judge, to be known as the recorder of such court in such city, town or village, who, in cities, towns or villages incorporated under special charter or charters, shall be elected or appointed in the manner and under the respective provisions of the charter now in force concerning the election or appointment of the magistrate to preside over the municipal

court in such city, town or village, and all such provisions are hereby made applicable to the recorder herein provided for; and in cities, towns or villages not incorporated under special charter such recorder shall be elected by the qualified voters of such city, town or village, in the same manner as the mayor of such city, town or village, and whose term of office shall be the same as such mayors; provided, that in such cities, towns and villages not incorporated and acting under special charters, the mayor of such city, town or village shall be ex-officio recorder of such court, and shall act as such unless the city council or board of aldermen of such city, town or village shall by ordinance authorize the election of a recorder.'"

Adopted.

Section 4 read.

Section 5 read.

Section 6 read.

By Senator Terrell:

"Amend by striking out all of Section 6 down to and including the word 'cases,' line 13, and insert the following therefor: 'All the rules of pleading, practice and procedure in justice courts shall apply to said corporation court.'"

By Senator Dibrell:

Substitute the amendment:

"Amend Section 6 by adding thereto the following: 'Provided, that in all cities, towns and villages in this State not operating under special charters the rules of pleading, practice and procedure now established for justices courts shall apply to said corporation courts in such cities, towns and villages in so far as the same are applicable.'"

Adopted.

Amendment as substituted,

Adopted.

Section 7 read.

Section 8 read.

Section 9 read.

By Senator Potter:

"Amend Section 9, line 8, by adding after the words 'nor other law of this State.' Also add after the word 'act,' in line 15, the words, 'nor other law of this State.'"

Adopted.

Section 10 read.

Section 11 read.

Section 12 read.

Section 13 read.

Section 14 read.

Section 15 read.

(Senator Turney in the Chair.)

Section 16 read.

By Senator Yantis:

"Amend by striking out Section 16,

pages 6 and 7, and insert in lieu thereof the following:

"Section 16. Appeals from judgments rendered by such corporation courts shall be heard by the county court except in cases where the county court has no jurisdiction, in which counties such appeals shall be heard by the district court of such counties, unless in such county there is a criminal district court in which cases the appeal shall be from such corporation court to said criminal district court, and in all such appeals to such county court or criminal district court the trial shall be de novo, the same as if the prosecution had been originally commenced in that court. Said appeals shall be governed by the rules of practice and procedure for appeals from justice courts to the county court so far as the same may be applicable.'"

By Senator Miller:

"As a substitute for amendment of Senator Yantis, the following to amend section 16 by adding after the words appeals, in line 28, "or to the court of such county, or in counties having a criminal district court having misdemeanor jurisdiction to the criminal district court of such county as the defendant or his counsel may elect and give notice in open court at the conclusion of the trial or upon the overruling of a motion for a new trial and in case of appeal to the Court of Criminal Appeals.'"

Lost by the following vote:

Yeas—10.

Dibrell.	Odell.
Greer.	Patterson.
Grinnan.	Stafford.
Linn.	Turney.
Miller.	Wayland.

Nays—11.

Atlee.	Potter.
Burns.	Ross.
Davidson.	Sebastian.
James.	Terrell.
Lloyd.	Yantis.
McGee.	

Absent.

Johnson.	Neal.
Kerr.	Stone.
Morriss.	

Absent—Excused.

Goss.	Lewis.
Gough.	Yett.
Hanger.	

The amendment (Yantis') was then adopted.

Section 17 read.

By Senator Yantis:

"Amend by striking out Section 17."

Adopted.

Section 18 read.

Section 19 read.

This concluded the consideration of the bill by sections.

By Senator James:

"Amend line 27, Section 5, page 3, by adding after the word 'secretary' the following: 'Provided, that in cities and towns not incorporated under special charters the mayor or recorder shall act as the clerk of said court.'"

Lost.

By Senator Wayland:

"Amend the amendment offered by Senator Grinnan and adopted as follows: Strike out the words 'special charter' wherever they occur and insert in lieu thereof, 'general or special laws of the State.'"

Lost.

By Senator Terrell:

"Amend by striking out in line 31, page 7, and in line 3, page 8, the following words: 'the election of the recorder and.'"

Adopted.

By Senator Potter:

"Amend Section 4 by adding thereto the following: 'Provided, further, that the board of aldermen may provide by ordinance for the mayor to act as ex-officio recorder in all cities and towns not operating under special charter.'"

Adopted.

By Senator Greer:

"Amend by changing Sections 18, 19 and 20 by making them read now Sections 17, 18 and 19."

Adopted.

The bill as amended was then ordered engrossed.

On motion of Senator Miller, the constitutional rule requiring bills to be read on three several days was suspended and the bill put upon its third reading and final passage by the following vote:

Yeas—21.

Atlee.	Odell.
Burns.	Patterson.
Davidson.	Potter.
Dibrell.	Ross.
Greer.	Sebastian.
Grinnan.	Stafford.
James.	Terrell.
Linn.	Turney.
Lloyd.	Wayland.
McGee.	Yantis.
Miller.	

Absent.

Johnson.	Neal.
Kerr.	Stone.
Morriss.	

Absent—Excused.

Goss.	Lewis.
Gough.	Yett.
Hanger.	

Bill read third time, and passed by the following vote:

Yeas—21.

Atlee.	Odell.
Burns.	Patterson.
Davidson.	Potter.
Dibrell.	Ross.
Greer.	Sebastian.
Grinnan.	Stafford.
James.	Terrell.
Linn.	Turney.
Lloyd.	Wayland.
McGee.	Yantis.
Miller.	

Absent.

Johnson.	Neal.
Kerr.	Stone.
Morriss.	

Absent—Excused.

Goss.	Lewis.
Gough.	Yett.
Hanger.	

Senator Miller moved to reconsider the vote by which the bill was passed, and to lay that motion on the table.

Tabled.

"I vote for the present bill with reluctance, believing that in its amended form towns and cities in this State organized under the general laws are left the same mayors' or recorders' court that they now have under the general laws of this State, and inasmuch as said courts have been declared unconstitutional by the Court of Criminal Appeals, in so far as their jurisdiction is made concurrent with the courts of justice of the peace in said towns and cities, and for that reason that the bill will fail in its purpose and again be declared unconstitutional in the respect named, and cities and towns left without the relief I think them entitled to. However, I yield to the judgment of my brother Senators, regretting that the committee bill was not adopted, hoping that my judgment may be in error as to the effect of the various amendments to the bill adopted.

"ODELL,
"MILLER."

On motion of Senator Potter, the Senate adjourned to 10 a. m. tomorrow.

TWENTY-FOURTH DAY.

Senate Chamber,

Austin, Texas, Friday, Feb. 10, 1899.

Senate met pursuant to adjournment.